

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CROSS COUNTRY MOTOR CLUB, INC.,

Plaintiff,

v.

AUTO SERVICES COMPANY, INC.,

Defendant.

CIVIL ACTION
NO. 04-11992-NG

**JOINT STATEMENT SUBMITTED PURSUANT TO
FED. R. CIV. P. 26(f) AND LOCAL RULE 16.1**

Plaintiff, Cross Country Motor Club, Inc. ("Cross Country") and Defendant, Auto Services Company, Inc. ("ASC"), submit this Joint Statement in accordance with Fed. R. Civ. P. 26(f) and Local Rule 16.1.

A. Concise Statement

This case centers around a March 20, 2003 Agreement entered into by the parties in which, among other things, ASC desired to provide roadside assistance dispatch service to its extended automobile service contract customers and Cross Country agreed to provide such roadside assistance to those customers. On August 10, 2004, Cross Country filed this action in the Superior Court for Middlesex County alleging that defendant is liable for (i) breach of contract (ii) breach of the covenant of good faith and fair dealing, and (iii) unfair trade practices. Cross Country claims in excess of \$113,000 in damages. On or about September 16, 2004, ASC removed the matter to the United States District Court for the District of Massachusetts. ASC also filed a counterclaim against Cross Country for (i) a declaratory judgment, (ii) breach of contract (iii) breach of the

covenant of good faith and fair dealing, (iv) fraud, and (v) unfair trade practices. ASC claims in excess of \$1,153,000 in damages.

B. Proposed Agenda for Scheduling Conference

The parties jointly propose that the agenda for the October 29, 2004 scheduling conference include a discussion of the following topics:

1. Proposed discovery and expert discovery plan;
2. Proposed schedule for filing of motions, including dispositive motions;
3. Hearing dates for potential motions;
4. Proposed trial date;
5. Possible mediation; and
6. Settlement/alternative dispute resolution.

C. Proposed Discovery Plan

The parties jointly propose that discovery be conducted pursuant to the limits set forth in Local Rule 26.1(c) and take place in accordance with the following schedule.

<u>Event</u>	<u>Date</u>
Initial Disclosures and Document Exchange	served by November 30, 2004
Document requests	served by December 15, 2004
Interrogatories	served by December 15, 2004
Amendments to Pleadings Joinder of Additional Parties	served by January 31, 2005
Depositions of fact witnesses/fact discovery (including document subpoena)	completed by March 31, 2005
Expert Reports as required Fed. R. Civ. P. 26(a)(2)	served by May 15, 2005
Depositions of expert witnesses	completed by June 15, 2005

D. Motions

All dispositive motions to be filed no later than July 1, 2005.

E. Pretrial and Trial

Final Pretrial Conference to be held on or about August 1, 2005, if no dispositive motions are filed or, in the alternative, at the Court's earliest convenience after rulings have been made should dispositive motions be filed.

F. Certifications

The certifications required by Local Rule 16.1(D)(3) are attached hereto or will be filed separately on or before the day of the conference.

G. Mediation and Trial by Magistrate

The parties agree to consider mediation on an ongoing basis as an option for the resolution of this matter. At this time, the parties do not consent to trial before a United States Magistrate Judge.


Respectfully submitted,

CROSS COUNTRY MOTOR CLUB, INC.


by its attorneys,

AUTO SERVICES COMPANY, INC.

by its attorneys,



Victor H. Polk, Jr., BBO # 546099
William F. Benson, BBO # 646808
BINGHAM MCCUTCHEN LLP
150 Federal Street
Boston, MA 02110
(617) 951-8000



David Rapaport, BBO # 411920
DAVIS, MALM & D'AGOSTINE, P.C.
One Boston Place, 37th Floor
Boston, MA 02108
(617) 589-3801

Dated: October 22, 2004